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| 10/598,988 | 09/18/2006 | Philips Steven Newton | NL 040286 | 3013 |

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

| EXAMINER |
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## BEFORE THE BOARD OF PATENT APPEALS
## AND INTERFERENCES

Application Number: 10/598,988
Filing Date: September 18, 2006
Appellant(s): NEWTON ET AL.

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Philip S. Newton
For Appellant

## EXAMINER'S ANSWER

This is in response to the appeal brief filed 03/16/2009 appealing from the Office action

mailed 10/15/2008.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

| | | |
|---|---|---|
| 2004/0204073 | Yanosy | 10-2004 |
| 2002/0161934 | Johnson et al. | 10-2002 |
| 6,421,717 | Kloba et al. | 06-2002 |

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

1.    **Claims 1-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Yanosy* (U.S. Pub. No. 2004/0204073 A1) in view of *Johnson et al* (U.S. Pub No. 2002/0161934 A1).

As to **Claims 1 and 6-8,** *Yanosy* discloses a method of providing data storage for a user device **(Mobile device 10; Figure 1)** comprising providing an application interface **(Virtual Operating System 104; Figure 2)** which enables access to a virtual local storage by an application running on the user device **(Application 103; Figure 2)** by processing a request from the application to store auxiliary data associated with the application in the virtual local storage, and, when a storage request is received, having the auxiliary data stored on the remote server via the network **(Application 103 makes a request to store auxiliary data (Step 1001, Figure 11; Paragraph 0030). VOS 104 receives a request from Application 103 for Shareable Resources 122 or "virtual storage" and enables said virtual resources on the mobile device for storage of said data (Step 1002-1004, Figure 11 and 16; Paragraphs 0031-0034 and 0045)**.

However, *Yanosy* does not expressly disclose initiating a socket connection between a user device and a remote server.

*Johnson,* in the same field of endeavor, teaches **using socket connections between a user device, Host Systems, and a remote server, Server connected to Storage Devices.  Paragraphs 0056-0057).**

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine creating socket connections between the user device and server as taught by *Johnson* with the data storage system of *Yanosy*. The motivation would have been to provide communications between the server and client on an IP based network.

As to **Claims 2 and 5,** *Yanosy-Johnson* further discloses wherein having the auxiliary data stored includes storing a user identification **(Paragraph 0030)**.

As to **Claims 4 and 9,** *Yanosy* discloses a method of storing auxiliary data from at least one user on a remote server that is connectable to a user device via a network for providing storage for the user device comprising initiating a connection by a storage application in the user device in response to a request for access to a virtual local storage by an application running on the user device to store auxiliary data associated with the application in the virtual local storage, receiving, via the network, requests for storing auxiliary data from the application running in the user device, and when a storage request is received, storing the auxiliary data on the remote server **(Application 103 makes a request to store auxiliary data (Step 1001, Figure 11; Paragraph 0030). VOS 104 receives a request from Application 103 for Shareable Resources 122 or "virtual storage" and enables said virtual resources on the mobile device for storage of said data (Step 1002-1004, Figure 11 and 16; Paragraphs 0031-0034 and 0045)**.

However, *Yanosy* does not expressly disclose the connection between the storage application and a remote server being a socket connection.

*Johnson,* in the same field of endeavor, teaches **using socket connections between an application programming interface in a user device, and a remote server.  Paragraphs 0044 and 0056-0057).**

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine creating socket connections between the user device and server as taught by *Johnson* with the data storage system of *Yanosy.*  The motivation would have been to provide communications between the server and client on an IP based network.

As to **Claim 10,** *Yanosy-Johnson* further discloses computer program instructions that are executable by the processor to generate and transmit at least one stream of real-time information **(Figure 2; Paragraph 0024)**.

**(10) Response to Argument**

The examiner summarizes the various points raised by the appellant and addresses replies individually.

As per appellant's argument that:

(1) "Storing data on a remote server in response to a request to store data from an application running on the user device is nowhere disclosed or suggested in Yanosy.

Rather, Yanosy merely discloses to provide access to a remote service provider is in response to a service augmentation."

**In reply** to argument (1), examiner respectfully disagrees.  Figure 16, Paragraph 0045, *Yanosy* teaches Mobile Device Application 103, at Step 1501, making a request to store data on a remote server, Shareable Network Resource 122, and storing data on said remote server at Step 1512.

For the above reason, Claims 1-10 stand rejected.


**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


/Robert B McAdams/

/John  Follansbee/

Supervisory Patent Examiner, Art Unit 2451

Conferees:

/Kenny S Lin/

Primary Examiner, Art Unit 2452


/Bunjob  Jaroenchonwanit/

Supervisory Patent Examiner, Art Unit 2456


/John  Follansbee/
Supervisory Patent Examiner, Art Unit 2451